



Sen. Dale A. Righter

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09400SB1828sam003

LRB094 11306 RAS 45284 a

1 AMENDMENT TO SENATE BILL 1828

2 AMENDMENT NO. _____. Amend Senate Bill 1828, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Insurance Code is amended by
6 changing the heading of Article XXXI 1/2 and Sections 512-1,
7 512-2, 512-3, 512-4, 512-5, 512-6, 512-7, 512-8, 512-9, and
8 512-10 and by adding Sections 512-11 and 512-12 as follows:

9 (215 ILCS 5/Art. XXXI.5 heading)

10 ARTICLE XXXI 1/2.

11 PHARMACEUTICAL BENEFITS MANAGEMENT ~~THIRD PARTY PRESCRIPTION~~
12 PROGRAMS

13 (215 ILCS 5/512-1) (from Ch. 73, par. 1065.59-1)

14 Sec. 512-1. Short Title. This Article shall be known and
15 may be cited as the "Pharmaceutical Benefits Management
16 Programs Law ~~Third Party Prescription Program Act~~".

17 (Source: P.A. 82-1005.)

18 (215 ILCS 5/512-2) (from Ch. 73, par. 1065.59-2)

19 Sec. 512-2. Purpose. It is hereby determined and declared
20 that the purpose of this Article is to regulate pharmaceutical
21 benefits management programs ~~certain practices engaged in by~~
22 ~~third party prescription program administrators.~~

1 (Source: P.A. 82-1005.)

2 (215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

3 Sec. 512-3. Definitions. For the purposes of this Article,
4 unless the context otherwise requires, the terms defined in
5 this Article have the meanings ascribed to them herein:

6 "Director" means the Director of the Division of Insurance
7 of the Department of Financial and Professional Regulation.

8 "Division" means the Division of Insurance of the
9 Department of Financial and Professional Regulation.

10 ~~(a) "Pharmaceutical benefits management Third party~~
11 ~~prescription program" or "program" means any system of~~
12 ~~providing for the administration of or reimbursement for of~~
13 ~~pharmaceutical services and prescription drug products offered~~
14 ~~or operated in this State by a pharmaceutical benefits manager~~
15 ~~under a contractual arrangement or agreement between a provider~~
16 ~~of such services and another party who is not the consumer of~~
17 ~~those services and products. Such programs may include, but~~
18 ~~need not be limited to, employee benefit plans whereby a~~
19 ~~consumer receives prescription drugs or other pharmaceutical~~
20 ~~services and those services are paid for by an agent of the~~
21 ~~employer or others.~~

22 ~~(b) "Pharmaceutical benefits manager Third party program~~
23 ~~administrator" or "PBM administrator" means any person,~~
24 ~~partnership or corporation who issues or causes to be issued~~
25 ~~any payment or reimbursement to a provider for services~~
26 ~~rendered pursuant to a pharmaceutical benefits management~~
27 ~~third party prescription program. "Pharmaceutical benefits~~
28 ~~manager" or "PBM", but does not include the Director of Public~~
29 ~~Aid or any agent authorized by the Director to reimburse a~~
30 ~~provider of services rendered pursuant to a program of which~~
31 ~~the Department of Public Aid is the third party.~~

32 (Source: P.A. 90-372, eff. 7-1-98.)

1 (215 ILCS 5/512-4) (from Ch. 73, par. 1065.59-4)

2 Sec. 512-4. Registration. All pharmaceutical benefits
3 management ~~third party prescription~~ programs and PBMs
4 ~~administrators~~ doing business in the State shall register with
5 the Director ~~of Insurance~~. The Director may ~~shall~~ promulgate
6 regulations establishing criteria for registration in
7 accordance with the terms of this Article. The Director may by
8 rule establish an annual registration fee for each
9 pharmaceutical benefits management program ~~third party~~
10 ~~administrator~~.

11 (Source: P.A. 82-1005.)

12 (215 ILCS 5/512-5) (from Ch. 73, par. 1065.59-5)

13 Sec. 512-5. Fiduciary and Bonding Requirements.

14 (a) A PBM ~~third party prescription program administrator~~
15 shall (1) establish and maintain a fiduciary account, separate
16 and apart from any and all other accounts, for the receipt and
17 disbursement of funds for reimbursement of providers of
18 services under the program, or (2) post, or cause to be posted,
19 a bond of indemnity in an amount equal to not less than 10% of
20 the total estimated annual reimbursements under the program.

21 (b) The establishment of such fiduciary accounts and bonds
22 shall be consistent with applicable State law. If a bond of
23 indemnity is posted, it shall be held by the Director ~~of~~
24 ~~Insurance~~ for the benefit and indemnification of the providers
25 of services under the pharmaceutical benefits management ~~third~~
26 ~~party prescription~~ program.

27 (c) Any PBM ~~An administrator~~ who operates more than one
28 pharmaceutical benefits management ~~third party prescription~~
29 program may establish and maintain a separate fiduciary account
30 or bond of indemnity for each such program, or may operate and
31 maintain a consolidated fiduciary account or bond of indemnity
32 for all such programs.

33 (d) The requirements of this Section do not apply to any

1 ~~pharmaceutical benefits management third party prescription~~
2 program administered by or on behalf of any insurance company,
3 Health Maintenance Organization, Limited Health Service
4 ~~Organization, or Voluntary Health Services Plan Care Service~~
5 ~~Plan Corporation or Pharmaceutical Service Plan Corporation~~
6 authorized to do business in the State of Illinois.

7 (Source: P.A. 82-1005.)

8 (215 ILCS 5/512-6) (from Ch. 73, par. 1065.59-6)

9 Sec. 512-6. Notice. Notice of any change in the terms of a
10 ~~pharmaceutical benefits management third party prescription~~
11 program, including but not limited to drugs covered,
12 reimbursement rates, co-payments, and dosage quantity, shall
13 be given to each enrolled pharmacy at least 30 days prior to
14 the time it becomes effective.

15 (Source: P.A. 82-1005.)

16 (215 ILCS 5/512-7) (from Ch. 73, par. 1065.59-7)

17 Sec. 512-7. Contractual provisions.

18 (a) Any agreement or contract entered into ~~in this State~~
19 between a PBM ~~the administrator of a program~~ and a pharmacy
20 under a pharmaceutical benefits management program shall
21 include a statement of the method and amount of reimbursement
22 to the pharmacy for services rendered to persons enrolled in
23 the program, the frequency of payment by the PBM program
24 ~~administrator~~ to the pharmacy for those services, and a method
25 for the adjudication of complaints and the settlement of
26 disputes between the contracting parties.

27 (b) (1) A program shall provide an annual period of at least
28 30 days during which any pharmacy licensed under the
29 Pharmacy Practice Act of 1987 may elect to participate in
30 the program under the program terms for at least one year.

31 (2) If compliance with the requirements of this
32 subsection (b) would impair any provision of a contract

1 between a program and any other person, and if the contract
2 provision was in existence before January 1, 2006 ~~1990~~,
3 then immediately after the expiration of those contract
4 provisions the program shall comply with the requirements
5 of this subsection (b).

6 (3) This subsection (b) does not apply if:

7 (A) the PBM ~~program administrator~~ is a licensed
8 health maintenance organization, limited health
9 service organization, or voluntary health services
10 plan that owns or controls a pharmacy and that enters
11 into an agreement or contract with that pharmacy in
12 accordance with subsection (a); or

13 (B) (blank). ~~the program administrator is a~~
14 ~~licensed health maintenance organization that is owned~~
15 ~~or controlled by another entity that also owns or~~
16 ~~controls a pharmacy, and the administrator enters into~~
17 ~~an agreement or contract with that pharmacy in~~
18 ~~accordance with subsection (a).~~

19 (4) (Blank). ~~This subsection (b) shall be~~
20 ~~inoperative after October 31, 1992.~~

21 (c) The PBM ~~program administrator~~ shall cause to be issued
22 an identification card to each person enrolled in the program.
23 The identification card shall comply with the Uniform
24 Prescription Drug Information Card Act. ~~include:~~

25 ~~(1) the name of the individual enrolled in the program;~~
26 ~~and~~

27 ~~(2) an expiration date if required under the~~
28 ~~contractual arrangement or agreement between a provider of~~
29 ~~pharmaceutical services and prescription drug products and~~
30 ~~the third party prescription program administrator.~~

31 (Source: P.A. 86-473; 87-254.)

32 (215 ILCS 5/512-8) (from Ch. 73, par. 1065.59-8)
33 Sec. 512-8. Cancellation procedures.

1 (a) The pharmaceutical benefits manager ~~administrator of a~~
2 ~~program~~ shall notify all pharmacies enrolled in the program of
3 any cancellation of the coverage of benefits of any group
4 enrolled in the program at least 30 days prior to the effective
5 date of such cancellation. However, if the PBM ~~administrator of~~
6 ~~a program~~ is not notified at least 45 days prior to the
7 effective date of such cancellation, the PBM ~~administrator~~
8 shall notify all pharmacies enrolled in the program of the
9 cancellation as soon as practicable after having received
10 notice.

11 (b) When a program is terminated, all persons enrolled
12 therein shall be so notified, and the employer shall make every
13 reasonable effort to gain possession of any plan identification
14 cards in such persons' possession.

15 (c) Any person who intentionally uses a program
16 identification card to obtain services from a pharmacy after
17 having received notice of the cancellation of his benefits
18 shall be guilty of a Class C misdemeanor. Persons shall be
19 liable to the PBM ~~program administrator~~ for all monies paid by
20 the PBM ~~program administrator~~ for any services received
21 pursuant to such misuse ~~any improper use~~ of the identification
22 card.

23 (Source: P.A. 82-1005.)

24 (215 ILCS 5/512-9) (from Ch. 73, par. 1065.59-9)

25 Sec. 512-9. Denial of Payment.

26 (a) No PBM ~~administrator~~ shall deny payment to any pharmacy
27 for covered pharmaceutical services or prescription drug
28 products rendered as a result of the misuse, fraudulent or
29 illegal use of an identification card unless such
30 identification card had expired, been noticeably altered, or
31 the pharmacy was notified of the cancellation of such card. In
32 lieu of notifying pharmacies which have a common ownership, the
33 PBM ~~administrator~~ may notify a party designated by the pharmacy

1 to receive such notice, in which case, notification shall not
2 become effective until 5 calendar days after the designee
3 receives notification.

4 (b) No PBM ~~program administrator~~ may withhold any payment
5 to any pharmacy for covered pharmaceutical services or
6 prescription drug products beyond the time period specified in
7 the payment schedule provisions of the agreement, except for
8 individual claims for payment which have been returned to the
9 pharmacy as incomplete or illegible. Such returned claims shall
10 be paid if resubmitted by the pharmacy to the PBM ~~program~~
11 ~~administrator~~ with the appropriate corrections made.

12 (Source: P.A. 82-1005.)

13 (215 ILCS 5/512-10) (from Ch. 73, par. 1065.59-10)

14 Sec. 512-10. Failure to Register. Any pharmaceutical
15 benefits management ~~third party prescription~~ program or PBM
16 that administrator which operates without a certificate of
17 registration or fails to register with the Director and pay the
18 fee prescribed by this Article shall be construed to be an
19 unauthorized insurer as defined in Article VII of this Code and
20 shall be subject to all penalties contained therein.

21 The provisions of this ~~the~~ Article shall apply to all new
22 programs established on or after January 1, 2006 ~~1983~~. Programs
23 existing on the effective date of this amendatory Act of the
24 94th General Assembly ~~Existing programs~~ shall comply with the
25 provisions of this Article as they existed before the effective
26 date of this amendatory Act of the 94th General Assembly until
27 ~~on~~ the anniversary date of the programs that occurs on or after
28 January 1, 2006, at which time the programs shall comply with
29 the provisions of this Article as they exist beginning on the
30 effective date of this amendatory Act of the 94th General
31 Assembly ~~1983~~.

32 (Source: P.A. 82-1005.)

1 (215 ILCS 5/512-11 new)

2 Sec. 512-11. Failure to Comply. In order to enforce the
3 provisions of this Article, the Director may issue a cease and
4 desist order or require a PBM to pay a civil penalty or both.
5 Subject to the provisions of the Illinois Administrative
6 Procedure Act, the Director may, pursuant to Section 403A of
7 the Illinois Insurance Code, impose upon a pharmaceutical
8 benefits management program an administrative fine of \$5,000
9 for violations of this Article.

10 (215 ILCS 5/512-12 new)

11 Sec. 512-12. Rulemaking. The Director shall have the
12 authority to adopt any rules necessary for the implementation
13 and administration of this Article.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.".